

REQUIRES MONITORING  
OR STAFF ACTION \_\_\_\_\_

## COMMISSION DIRECTIVE

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u>October 13, 2005</u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u>2005-210-E- - -</u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>		_____

## SUBJECT:

Docket No. 2005-210-E – Duke Energy Corporation- Application for Authorization to Enter into a Business Combination Transaction with Cinergy Corporation – Discuss this Matter with the Commission.

## COMMISSION ACTION:

I move that the Commission make certain inquiries of the parties in order to assist this Commission in carrying out its statutory duty of determining that the proposed merger is in the public interest.

I have a copy of my motion in written form which includes a list of questions which I propose be provided to the parties for response. Those questions are attached as Exhibit A to the motion.

So as not to further delay this matter, I further move that the Commission request that the parties consider and suggest alternative ways of providing the requested information, such as sponsorship of the information through further witness testimony or submission of affidavits. In that regard, I move that this Commission appoint Charles L.A. Terreni as hearing officer to coordinate with the parties concerning the provision of the requested information.

Finally, I move that the Commission request the parties to provide the information sought at the earliest date convenient to them, but no later than next Wednesday, October 19, 2005.

(Commissioner Howard moved to amend the Motion. See Page 2 of 3 for Amendment).

PRESIDING Mitchell

Session: Regular

Time of Session 11:30 AM

AMENDED MOTION YES NO OTHER

CLYBURN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not Voting
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MOSELEY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

APPROVED \_\_\_\_\_  
 APPROVED STC 30 DAYS \_\_\_\_\_  
 ACCEPTED FOR FILING \_\_\_\_\_  
 DENIED \_\_\_\_\_  
 AMENDED \_\_\_\_\_  
 TRANSFERRED \_\_\_\_\_  
 SUSPENDED \_\_\_\_\_  
 CANCELED \_\_\_\_\_  
 SET FOR HEARING \_\_\_\_\_  
 ADVISED \_\_\_\_\_  
 CARRIED OVER \_\_\_\_\_  
 RECORDED BY SCHMIEDING

Commissioner Clyburn did not participate in voting on the motion or amendment due to her absence from the October 10, 2005 session of the hearing in this docket. Commissioner Clyburn was attending the Emerging Issues Policy Forum (EIPF) in Orlando, Florida on that date.

COMMISSION DIRECTIVE (Continued)

\*See Attached Exhibit A for Questions

Exhibit A

1. If FERC requires power plant divestiture as a condition of merger approval, which, if any, South Carolina power plants would be impacted? How will reserve margins in South Carolina be affected in that event?
2. What impacts to Duke's current employment of South Carolina workers is anticipated as a result of the merger?
3. Please elaborate on the impact of the merger to South Carolina economic development efforts – including but not limited to Advance South Carolina – that are anticipated as a result of the merger.
4. Will the fact that Cinergy is a member of MISO, and that Duke recently selected MISO to be its Independent Transmission Coordinator, create motivation for Duke Power to participate more fully in that or another RTO?
5. Please discuss the operating challenges relative to having a portion of the new company's transmission system affiliated with MISO, Duke's recent proposal for an Independent Transmission Coordinator and the close proximity to PJM of Duke's North Carolina transmission system. How will overall transmission system planning be accomplished with all these stakeholders?
6. How will Duke account for the operation of the post-merger company in states with retail deregulation and states where retail markets remain regulated?
7. Are consistent native load protection provisions being sought among all states impacted by the proposed merger?
8. Increased efficiency reduced operating costs, increased financial flexibility, and higher earnings after one year have all been cited as potential benefits of the proposed merger. Can these claims be substantiated in a quantitative fashion? If so, please provide that substantiation.
9. What systems will be put in place to ensure that New Duke captures all the synergies, increased efficiencies and reduced costs cited in justifying the proposed merger?
10. What is the basis of the \$40 million figure selected for the first-year rate decrement for South Carolina retail base rates?
11. What longer term impact to the electric rates of South Carolina customers are anticipated as a result of the merger? What factors will impact those rates? If the benefits of the merger are expected to be long term, why is the proposed one-year retail rate reduction temporary?
12. What steps does Duke intend to take to eliminate the possibility of cross-subsidization between the regulated and unregulated portions of the combined companies, and among the various jurisdictions in which the new company will operate?
13. Please provide the testimony of Dr. Hieronymus which was referenced in the South Carolina merger application in Exhibit J – Facts Relied upon to Demonstrate Consistency with Public Interest.